



DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-809]

Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Notice of Court Decision Not in Harmony with the Results of Antidumping Duty Administrative Review; Notice of Amended Final Results

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On June 16, 2022, the U.S. Court of International Trade (CIT) issued its final judgment in *Nexteel Co., Ltd., et al. v. United States*, Consol. Court no. 20-03868, sustaining the U.S. Department of Commerce (Commerce)'s first remand results pertaining to the administrative review of the antidumping duty (AD) order on circular welded non-alloy steel pipe (CWP) from the Republic of Korea (Korea) covering the period November 1, 2017, through October 31, 2018. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final results of the administrative review, and that Commerce is amending the final results with respect to the dumping margin assigned to Nexteel Co., Ltd., SeAh Steel Corporation, and Hyundai Steel Company.

DATES: Applicable June 27, 2022.

FOR FURTHER INFORMATION CONTACT: Dusten Hom, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5075.

SUPPLEMENTARY INFORMATION:

Background

On November 6, 2020, Commerce published its *Final Results* in the 2017-2018 AD administrative review of CWP from Korea.¹ Commerce determined in the *Final Results* that a particular market situation (PMS) existed with respect to the respondents' purchases of hot-rolled coil (HRC), the primary input for the production of subject merchandise, and, accordingly, we made an adjustment to the cost of production for the purposes calculating normal value when based upon home market sales and for the purposes of the sales-below-cost test.²

Nesteel Co., Ltd., Hyundai Steel Company, and SeAh Steel Corporation appealed Commerce's *Final Results*. On September 27, 2021, the CIT remanded the *Final Results* to Commerce, holding that Commerce is not permitted to make a PMS adjustment to the cost of production as an alternative calculation methodology when using normal value based on home market sales, and that Commerce cannot adjust cost of production for purposes of the sales-below-cost test.³

In its final remand redetermination, issued in October 2021, Commerce removed the PMS adjustment when calculating its dumping margin but continued to find that a PMS existed in Korea for HRC during the period of review.⁴ The CIT sustained Commerce's final redetermination.⁵

¹ See *Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 85 FR 71055 (November 6, 2020) (*Final Results*), and accompanying Issues and Decision Memorandum (IDM).

² See *Final Results* IDM at Comment 1.

³ See *Nesteel Co., Ltd., et al. v. United States*, Consol. Court No. 20-03868, Slip Op. 21-132 (CIT September 27, 2021).

⁴ See *Final Results of Redetermination Pursuant to Court Order Nesteel Co., Ltd., et al. v. United States*, Court No. 20-03868, Slip Op. 21-132 (CIT September 27, 2021), dated October 29, 2021.

⁵ See *Nesteel Co., Ltd., et al. v. United States*, Consol. Court No. 20-03868, Slip Op. 22-69 (CIT June 16, 2022).

Timken Notice

In its decision in *Timken*,⁶ as clarified by *Diamond Sawblades*,⁷ the U.S Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of court decision that is not “in harmony” with a Commerce determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s June 16, 2022, judgment constitutes a final decision of the CIT that is not in harmony with Commerce’s *Final Results*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Results

Because there is now a final court judgment, Commerce is amending its *Final Results* with respect to mandatory respondent Nexteel Co., Ltd., and the non-examined companies (SeAh Steel Corporation and Hyundai Steel Company) as follows:

Company	Weighted-average Dumping Margin (percent)
Nexteel Co., Ltd.	1.63
Non-Examined Companies (SeAH Steel Corporation and Hyundai Steel Company)	2.35

Cash Deposit Requirements

Because Nexteel Co., Ltd., SeAh Steel Corporation, and Hyundai Steel Company have superseding cash deposit rates, *i.e.*, there have been final results published in a subsequent administrative review, we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP). This notice will not affect the current cash deposit rate.

Liquidation of Suspended Entries

At this time, Commerce remains enjoined by CIT order from liquidating entries that: were produced and/or exported by Nexteel Co., Ltd., Hyundai Steel Company, and SeAh Steel

⁶ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

⁷ See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

Corporation, and were entered, or withdrawn from warehouse, for consumption during the period November 1, 2017, through October 31, 2018. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

In the event the CIT's ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess antidumping duties on unliquidated entries of subject merchandise produced and/or exported by Nexteel Co., Ltd., Hyundai Steel Company, and SeAh Steel Corporation in accordance with 19 CFR 351.212(b). We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific *ad valorem* assessment rate is not zero or *de minimis*. Where an import-specific *ad valorem* assessment rate is zero or *de minimis*,⁸ we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: June 22, 2022.

Lisa W. Wang,

Assistant Secretary

for Enforcement and Compliance.

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⁸ See 19 CFR 351.106(c)(2).